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CHIEF OF POLICE

BROOKLINE POLICE DEPARTMENT

Brookline, Massachusetts

General Order#2012-1

Subject: Brookline Police Department Automated License
Plate Reader ("ALPR") System

Date: June 26, 2012

I. PURPOSE

The purpose of this General Order is to establish a policy and procedures to ensure the proper use of Automated License Plate Readers (ALPR) by members of the Brookline Police Department. This General Order shall remain in effect until it is superseded, amended or withdrawn by the Board of Selectmen.

II. POLICY

An ALPR system is a computer-based system that utilizes special cameras to capture license plate information. The ALPR system captures an infrared image of a license plate and converts it to a text file using Optical Character Recognition ("OCR") technology. The text is compared to various hot lists generated by various law enforcement agencies, including the National Crime Information Center ("NCIC") and the Brookline Police Department, and generates an alert when there is a hit. The ALPR system will identify a license plate and /or a motor vehicle. The ALPR system will not identify the person operating the motor vehicle. The Department may, as a separate step and for legitimate law enforcement purposes as set forth in this General Order, undertake to identify the owner of a vehicle in the event the ALPR system generates an alert, such as by running the license plate number through the database of the Massachusetts Registry of Motor Vehicles ("RMV").

It shall be the policy of the Brookline Police Department ("BPD," or "Department") that all Department members abide by the policy and procedures set forth in this General Order when using ALPRs to scan, detect, and identify vehicles or persons of interest, thereby increasing the efficiency and effectiveness of its public safety efforts in a manner that safeguards the privacy concerns of law-abiding citizens.

The ALPR system shall be restricted to legitimate law enforcement uses for the purpose of furthering legitimate law enforcement goals and enhancing public safety. Such uses and goals include, but are not limited to, providing information to officers that will assist in on-going criminal investigations, crime prevention, crime detection, the apprehension of wanted persons, ensuring the safety of vulnerable individuals through the recovery of missing and endangered persons, and improving the quality of life in our community through the identification and removal of stolen, unregistered, and uninsured motor vehicles, the collection of overdue fines from parking scofflaws through utilization of the “tow and hold” list, and enforcement of certain parking rules and regulations.

The Department shall utilize hot lists that further the above-specified goals of the ALPR system where there is a legitimate and specific law enforcement reason for identifying a vehicle or a person reasonably believed to be associated with that vehicle, such as: persons who are subject to an outstanding arrest warrant; missing persons; AMBER Alerts; stolen vehicles; vehicles that are reasonably believed to be involved in the commission of a crime; vehicles that are registered to or are reasonably believed to be operated by persons who do not have a valid operator’s license or who are on the revoked or suspended list; vehicles with expired registrations; persons who are subject to a restraining order issued by a court or by the Parole Board, or who are subject to any other duly issued order restricting their movements; persons wanted by a law enforcement agency who are of interest in a specific investigation, whether or not such persons are themselves suspected of criminal activity; and persons who are on any watch list issued by a State or federal agency responsible for homeland security when information has been received concerning a specific individual or individuals who pose a potential public safety risk to the Brookline area..

In summary the ALPR system will aid officers in ensuring the safety of our community.

III. ACRONYMS AND DEFINITIONS

“Alert” shall mean a visual and /or auditory notice or alarm that is triggered when the ALPR receives a potential hit on a license plate.

“Alert data” shall mean information captured by an ALPR relating to a license plate that matches the license plate on a hot list.

“ALPR” shall mean automated license plate reader.

“ALPR data” shall mean scan files, alert data, and any other documents or other data generated by or through utilization of the ALPR system.

“ALPR system” shall mean the ALPR camera and all associated equipment and databases.

“Hit” shall mean a read matched to a license plate that has previously been registered on an agency’s vehicle plates hot list, such as those associated with vehicles that have been stolen or that are unregistered or uninsured, vehicles wanted for specific crimes, vehicles associated with, or that may assist with the identification of, suspects involved in criminal activity, and vehicles associated with parking scofflaws.

“Hot list” shall mean data bases containing lists of license plate numbers of interest.

“Non-Encounter Alert” shall indicate to officers “Do not stop the vehicle based on this information alone. Only observe and report pertinent information to the requesting agency.

“OCR” shall mean optical character recognition.

“Read” shall mean digital images of license plates and associated metadata (e.g., date, time, and geographic coordinates associated with the vehicle image capture) that are captured by the ALPR system.

“Scan file” shall mean data obtained by an ALPR of license plates that were read by the device, including potential images of the plate and vehicle on which it was displayed, and information regarding the location of the police cruiser at the time of the ALPR read.

IV. PROCEDURES

A. Management

The Brookline Police Department, by and through its Chief, is solely responsible for the day-to-day operation and management of the ALPR system and for all tasks ancillary to its operation and management. The Chief shall assign Department personnel to operate and manage the ALPR system on a day-to-day basis. The Chief or his/her designee may assign civilian personnel (both from within and without the Department) to perform any function or duty related to the operation and management of the ALPR system, including but not limited to, inventory, service and maintenance work.

The Chief shall ensure that the ALPR system is operated in conformity with this General Order and other Department policies, procedures, rules and regulations. The Chief shall enforce this General Order and shall act as the Department Head for all disciplinary and enforcement actions for any violations by Department personnel.

B. Operations

1. Installation and Functioning. The ALPR cameras will be mounted on a marked cruiser. The cruiser will engage in either directed patrol or random patrol depending on the assignment given. The ALPR equipment will passively read the license plates of moving or parked motor vehicles using ALPR optical character recognition technology and compare them against various hot lists uploaded or created by the Police Department. Scanned data files collected by an officer will, on an ongoing basis, be automatically uploaded from the ALPR in the cruiser to the Department’s ALPR server. The ALPR system will not have sound recording capability.
2. Hot Lists. Designation of hot lists to be utilized by the ALPR system shall be made by the Chief or his/her designee. Hot lists shall be obtained or compiled from sources as may be consistent with the purposes of the ALPR system set forth in this General Order, which sources may include:
 - a. NCIC Stolen Vehicle files, as available;

- b. NCIC Stolen plates and Stolen Canadian plates, as available;
- c. NCIC Wanted persons, as available;
- d. NCIC Missing or Endangered person files, as available;
- e. NCIC Supervised Release (Federal Probationers), as available;
- f. NCIC Nationwide Domestic Violence Protection Orders, as available;
- g. NCIC Violent Gang and Terrorist Organization File, as available;
- h. NCIC Sexual Offender;
- i. RMV Records of Suspended/Revoked Registrations;
- j. BPD Tow/Hold List;
- k. Town of Brookline Parking Permit System; and
- l. Department-generated hot list(s) or manual entries of license plate numbers to existing hot list(s) created for purposes consistent with this General Order as may be authorized by the Chief or his/her designee.

The Department shall regularly upload hot lists utilized by the ALPR system so that these hot lists remain reasonably current.

Whenever a license plate number is manually entered into the ALPR system, the officer shall document the reason for doing so.

- 3. Regular Operation. The Commanding Officer-Platoon on Duty will assign as staffing permits, at least one officer per shift to the police motor vehicle equipped with the ALPR, which shall be utilized whenever available and operational.
- 4. Login/Log-Out Procedure. To ensure proper operation and facilitate oversight of the ALPR system, officers assigned to the ALPR vehicle shall login at beginning of shift and log out at the end.

C. Authorized Usage/Police Action

- 1. Authorized Users/Access. Only sworn officers trained in its use and this General Order and who have signed the Certification contained at the end of this General Order may operate the ALPR system or access or use stored ALPR data. Each authorized officer shall be issued an individual log-in ID and be required to utilize alphanumeric passwords consisting of a combination of upper and lower case, numbers, and symbols.
- 2. Permitted/Impermissible Uses. The ALPR system is the property of the Brookline Police Department. Department personnel may only access and use the ALPR system and may access, use, release and/or disseminate hot list and scan file data only for official and legitimate law enforcement purposes consistent with this General Order.

The following uses of the ALPR system are specifically prohibited:

- a. *Invasion of Privacy.* Except when done pursuant to a court order, it is a violation of this General Order to utilize the ALPR to record license plates except those of vehicles that are exposed to public view (*e.g.*, vehicles on a public road or street, or that are on private property but whose license plate(s) are visible from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).
- b. *Harassment / Intimidation.* It is a violation of this General Order to use the ALPR system or associated scan files or hot lists to harass and/or intimidate any individual or group.
- c. *Use Based on a Protected Characteristic.* It is a violation of this General Order to use the ALPR system or associated scan files or hot lists solely because of a person's race, gender, ethnicity, sexual orientation, disability or other classification protected by law.
- d. *Personal Use.* It is a violation of this General Order to use the ALPR system or associated scan files or hot lists for any personal purpose.
- e. *First Amendment Rights.* It is a violation of this General Order to use the ALPR system or associated scan files or hot lists for the purpose of infringing upon First Amendment rights.

Anyone who engages in an impermissible use of the ALPR system or associated scan files or hot lists may be subject to:

- criminal prosecution,
 - liability, and/or
 - administrative sanctions, including termination, pursuant to and consistent with the relevant collective bargaining agreements and Department policies.
3. Required Steps Preliminary to Police Action. Hot lists utilized by the Department's ALPR system may be updated by agency sources more frequently than the Department may be uploading them, and the Department's ALPR system will not have access to real time data. Further, there may be errors in the ALPR's read of a license plate. Therefore, an alert alone shall not be a basis for police action (other than following the vehicle of interest). Prior to initiation of a stop of a vehicle or other intervention based on an alert, an officer shall undertake the following:
 - a. *Verification of current status on hot list.* An officer must receive confirmation, from a Brookline Public Safety Communications Dispatcher or other department computer device, that the license plate is still stolen, wanted, or otherwise of interest before proceeding.
 - b. *Visual verification of license plate number.* Officers shall visually verify that the license plate on the vehicle of interest matches identically with the

image of the license plate number captured (read) by the ALPR, including both the alphanumeric characters of the license plate and the state of issue, before proceeding.

4. Stops. All stops of motor vehicles must be constitutionally valid and otherwise comply with the Department's Policy on Stop and Frisk and Threshold Inquiry (General Order 24). To assist with implementation of these obligations and in furtherance of the purposes of the ALPR system, the following requirements apply to traffic stops:
 - a. *Completion of Preliminary Steps to Police Action.* An officer must have complied with Section IV(C)(3) of this General Order prior to proceeding with a motor vehicle stop.
 - b. *Non-encounter alerts.* In the event that an alert is designated as a non-encounter alert, the officer shall follow any instructions included in the alert (e.g., notifying any applicable law enforcement or homeland security agency).
 - c. *Persons of Interest.* With regard to cases in which an alert may indicate a person of interest (such as a wanted person), officers are reminded that in some cases, the driver or occupant of the vehicle may not be the person with whom the license plate is associated (since vehicles may be loaned, e.g.). Therefore, officers must develop a reasonable belief that the operator or occupant is the person of interest included in a hot list prior to initiating a stop (e.g., by comparing the person's observed physical appearance with that of a physical description contained in the RMV database).
 - d. *Independent reason for traffic stop.* An officer may stop a vehicle where he/she has an independent reason for doing so, such as an unrelated traffic violation.
 - e. *Appropriate police action.* Nothing in this General Order shall restrict or prohibit an officer from taking appropriate police action based on facts or reasons obtained independently from ALPR operation.
5. Use in Connection With Serious Crimes/Incidents. The ALPR should be considered to conduct license plate canvasses in the immediate wake of any homicide, shooting, robbery, kidnapping, sexual assault or AMBER ALERT and or other major crime or incident. Registration plates or partial plates potentially associated with any such major crimes or incidents should be entered into the ALPR and compared against the scan file. Conversely, registration plate numbers may be used for exculpatory purposes (e.g., to corroborate a registrant's alibi).
6. Mutual Aid Requests. The Commanding Officer-Platoon on Duty may approve a mutual aid request for use of the ALPR for purposes consistent with this General Order, as may be appropriate under the circumstances and as resources permit. Commanding Officers-Platoon on Duty are encouraged to provide mutual aid to

other communities when they become aware of a serious incident, as to which serious incident they reasonably believe the ALPR may be useful. Examples of serious incidents include homicides, shootings, kidnappings, sexual assaults or AMBER alerts, or other serious or violent felonies as to which suspect vehicle information is available. ALPR data may be shared under this Section IV(C)(6) only as is consistent with this General Order and to the extent necessary to supply duly approved mutual aid. When such data sharing takes place, notice shall be given to the Board of Selectmen and Town Counsel at the earliest possible opportunity after such action has been taken.

D. Security/Authorized Stored Data Access/Confidentiality.

ALPR data shall be kept in a secure data storage system with access restricted to authorized persons only.

- a. *Scan Files.* Access to scan files will be secured and controlled by a login password-accessible system, which shall document who accessed the information by identity, date and time. Officers may only access data stored in the ALPR server based upon a reasonable belief that the scan file data may be related or useful as part of a specific official action or investigation. Requests for ALPR server data access must be in writing and be expressly authorized by the Chief of Police, or designee(s), in advance of such access. Scan file data will be considered confidential information to the extent permitted by law.
- b. *Hot lists.* Security of the hot list data will be the responsibility of the officer using the ALPR or accessing the data. Hot list data will be considered confidential information to the extent permitted by law.
- c. Designated officers trained in the use of the ALPR software shall have access to ALPR data to conduct analysis of said data in order to comply with legitimate law enforcement requests.

E. Retention

Scanned data will be retained for a period of fourteen days, unless a longer period is required by the Department's Evidence Policy, by court order, or by law. Data will also be kept for a longer time period so that this information may be used to assist in the parking ticket appeals process. In all other instances, the files shall be recorded over thereby being deleted and are not to be stored in backup servers. This does not include files retained for parking violations which will be stored in a separate data base to be utilized as part of our parking ticket appeal process.

F. Program Oversight / Evaluation / Audit Review

1. Designated, trained personnel shall check equipment on a regular basis to ensure functionality and camera alignment. Any equipment that falls outside expected functionality shall be removed from service until deficiencies have been corrected

Officers shall not attempt to modify or change the ALPR equipment or software unless authorized to do so.

2. Damage or other malfunctions to the equipment will be reported to the Commanding Officer – Platoon on Duty consistent with General Order # 19 – Police Vehicle Equipment.
3. All successful uses of the ALPR shall be documented and forwarded to the Commanding Officer Traffic/Records Division or their designee. The Commanding Officer Traffic/Records Division, or their designee, will compile statistics of these uses and provide monthly updates on such uses to the Department's command staff. The Board of Selectmen will be provided two audit reports per year, at six-month intervals, which provide a complete accounting of the uses of the ALPR System.
4. The Office of Professional Responsibility will be responsible for conducting, reviewing and retaining audits of the ALPR system usage. Audits shall be completed on a semi-annual basis and shall determine the Department's adherence to this General Order and the procedures it establishes, as well as the maintenance and completeness of records contemplated by this General Order. At the completion of this audit, a full report on the outcome shall be forwarded to the Chief of Police. Audit reports shall be considered to be public record to the extent consistent with the Public Records Law. Audits shall include, but not be limited to, review of the following:
 - a. Records of ALPR operators and their ALPR usage, including vehicles of interest added to a hot list by individual officers.
 - b. A listing of access to the police department's server, to include access, additions and/or searches of the scanned files, in order to verify security of that data and compliance with this General Order. All written requests for scanned file access will be retained for comparison against this audit record.
 - c. Records of sharing of ALPR data pursuant to Section IV(C)(6) of this General Order.
 - d. Records of reproduction of scan files pursuant to Section IV(G) below.
 - e. Hot lists entries shall be checked to ensure entries made are in compliance with this General Order.
5. Any officer becoming aware of a possible violation of this General Order, including but not limited to the unauthorized access, use, release and/or dissemination of ALPR data, shall refer the matter for an Administrative Investigation by our Office of Professional Responsibility.

G. Requests for Reproduction of Scan Files

1. Authority to Request / Permissible Requests. Sworn Department personnel of the rank of Sergeant and higher are authorized to make a request to the Technology Division for a reproduction of scan files. Requests for reproduction may be made only for legitimate law enforcement purposes, as part of normal procedures for investigations and the handling of evidence or in furtherance of the purposes for the ALPR system stated in this General Order.
2. Prompt Request. All requests to reproduce a scan files shall be made promptly and in any event as soon as possible to ensure that needed data is available. Notice shall be given to the Board of Selectmen and Town Counsel at the earliest opportunity after such reproduction and disclosure to a third party.
3. Reproduction Responsibility / Evidence. The Department's Technology Division shall be responsible for making reproductions of scan files. It shall make two copies of any reproduction. One copy shall be logged into the evidence system following the Department's Evidence Policy and shall be maintained in a manner consistent with the Evidence Policy and with maintaining the chain of custody for evidentiary materials. The second copy shall be reproduced to the requesting party utilizing the procedure described in Section IV(G)(4) below. The Technology Division shall document all requests for copies of scan files.
4. Reproduction Request Procedures.
 - a. Authorized Department Requests (see Section IV(G)(1) above):

By submitting a completed Scan File Request Form (available in the Technology Information folder on the "in-house" email system) to the Technology Division (cc to the appropriate Department Division (*e.g.*, Detective, Traffic) or personnel for follow-up). Department personnel of the rank of Captain or higher may authorize disclosure of a copy of scan files to any federal, state, or municipal law enforcement agency in connection with an open investigation.
 - b. Court-Related Requests (*e.g.*, Prosecutors, Defense Attorneys, Judges):

By submitting a completed Scan File Request Form to the appropriate Department court liaison (for the applicable court), who shall forward a copy to the Technology Division. The Technology Division shall send a copy of the requested reproduction to the court liaison, who shall send it to the requesting party.
 - c. Subpoena:

Except in connection with an open investigation as set forth in Section IV(G)(4)(a) above, by submitting a completed Scan File Request Form to the Department's Records Division, with responsibility for the reproduction falling to the Technology Division.
 - d. Public Records Requests for Scan Files:

Scan files shall be considered to be non-public record to the extent consistent with the Public Records Law.

e. Notification

In a,b,c and d above, notice shall be given to the Board of Selectmen and Town Counsel at the earliest opportunity after such reproduction and disclosure to a third party.

Adopted by the Board of Selectman on June 26, 2012

CERTIFICATION UNDER BROOKLINE POLICE DEPARTMENT
GENERAL ORDER #2012-1

**(Re: BROOKLINE POLICE DEPARTMENT AUTOMATED LICENSE PLATE
READER SYSTEM)**

I, _____, certify that I have received a copy of and have read General
Order 2012-1, dated June 26, 2012, regarding the Brookline Police Department's Automated License
Plate Reader System.

(Name)

Date: _____

(Signature)

(Title)